

103D CONGRESS  
1ST SESSION

# S. 666

To amend the Internal Revenue Code of 1986 to permanently extend and modify the credit for increasing research activities, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 26 (legislative day, MARCH 3), 1993

Mr. DANFORTH (for himself and Mr. BAUCUS) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to permanently extend and modify the credit for increasing research activities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Research and Development Enhancement Act of 1993”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-  
7 wise expressly provided, whenever in this Act an amend-  
8 ment or repeal is expressed in terms of an amendment  
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-  
 2 sion of the Internal Revenue Code of 1986.

3 **SEC. 2. PERMANENT EXTENSION AND MODIFICATION OF**  
 4 **RESEARCH CREDIT.**

5 (a) PERMANENT EXTENSION.—

6 (1) IN GENERAL.—Section 41 (relating to cred-  
 7 it for increasing research activities) is amended by  
 8 striking subsection (h).

9 (2) CONFORMING AMENDMENT.—Section  
 10 28(b)(1) (relating to qualified clinical testing ex-  
 11 penses) is amended by striking subparagraph (D).

12 (3) EFFECTIVE DATE.—The amendments made  
 13 by this subsection shall apply to amounts paid or in-  
 14 curred after June 30, 1992.

15 (b) CREDIT MAY OFFSET 50 PERCENT OF MINIMUM  
 16 TAX.—Section 38(c) (relating to limitation based on  
 17 amount of tax) is amended by redesignating paragraph (2)  
 18 as paragraph (3) and by inserting after paragraph (1) the  
 19 following new paragraph:

20 “(2) RESEARCH CREDIT MAY OFFSET 50 PER-  
 21 CENT OF MINIMUM TAX.—

22 “(A) IN GENERAL.—In the case of the re-  
 23 search credit—

1 “(i) this section and section 39 shall  
2 be applied separately with respect to such  
3 credit, and

4 “(ii) for purposes of applying para-  
5 graph (1) to such credit—

6 “(I) 50 percent of the tentative  
7 minimum tax shall be substituted for  
8 the tentative minimum tax under sub-  
9 paragraph (A) thereof, and

10 “(II) the net income tax and net  
11 regular tax liability shall be reduced  
12 by the credit under subsection (a)  
13 (other than the research credit), de-  
14 termined after the application of para-  
15 graph (1).

16 “(B) RESEARCH CREDIT.—For purposes of  
17 this paragraph, the term ‘research credit’  
18 means the portion of the credit under sub-  
19 section (a) which is attributable to the research  
20 credit determined under section 41(a).

21 “(C) LIMITATION.—In no event shall this  
22 paragraph permit the allowance of a credit  
23 which would result in a net chapter 1 tax less  
24 than an amount equal to 10 percent of the  
25 amount determined under section 55(b)(1)(A)

without regard to the alternative tax net operating loss deduction. For purposes of the preceding sentence, the term ‘net chapter 1 tax’ means the sum of the regular tax liability for the taxable year and the tax imposed by section 55 for the taxable year, reduced by the sum of the credits allowable under this part for the taxable year (other than under section 34).”

(c) FIXED-BASE PERCENTAGE LIBERALIZED.—

(1) IN GENERAL.—Subparagraph (A) of section 41(c)(3) (relating to fixed-base percentage) is amended to read as follows:

“(A) IN GENERAL.—Except as otherwise provided in this paragraph, the fixed-base percentage is the lowest percentage which the aggregate qualified research expenses of the taxpayer for any 4 consecutive taxable years beginning after December 31, 1983, and before January 1, 1993, is of the aggregate gross receipts of the taxpayer for such taxable years.”

(2) START-UP AND FRESH-START COMPANIES.—

(A) IN GENERAL.—Clauses (i) and (ii) of section 41(c)(3)(B) (relating to start-up companies) are amended to read as follows:

1           “(i) TAXPAYERS TO WHICH SUBPARA-  
2           GRAPH APPLIES.—The fixed-base percent-  
3           age shall be determined under this sub-  
4           paragraph if either—

5                   “(I) the first taxable year in  
6                   which the taxpayer had both gross re-  
7                   ceipts and qualified research expenses  
8                   occurred in a taxable year beginning  
9                   after December 31, 1983, or

10                   “(II) there are 3 consecutive tax-  
11                   able years beginning after December  
12                   31, 1992, during which the taxpayer’s  
13                   qualified research expenses for each  
14                   such year do not exceed the taxpayer’s  
15                   base amount for such year, but do ex-  
16                   ceed the average amount of such ex-  
17                   penses during the 3-taxable year pe-  
18                   riod immediately preceding such year.

19           “(ii) FIXED-BASE PERCENTAGE.—In a  
20           case to which this subparagraph applies,  
21           the fixed-base percentage is—

22                   “(I) 3 percent for each of the  
23                   taxpayer’s 1st 5 taxable years for  
24                   which the taxpayer has qualified re-

1 search expenses in the phase-in pe-  
2 riod,

3 “(II) in the case of the tax-  
4 payer’s 6th such taxable year in the  
5 phase-in period,  $\frac{1}{6}$  of the percentage  
6 which the aggregate qualified research  
7 expenses of the taxpayer for the 4th  
8 and 5th such taxable years is of the  
9 aggregate gross receipts of the tax-  
10 payer for such years,

11 “(III) in the case of the tax-  
12 payer’s 7th such taxable year in the  
13 phase-in period,  $\frac{1}{3}$  of the percentage  
14 which the aggregate qualified research  
15 expenses of the taxpayer for the 5th  
16 and 6th such taxable years is of the  
17 aggregate gross receipts of the tax-  
18 payer for such years,

19 “(IV) in the case of the tax-  
20 payer’s 8th such taxable year in the  
21 phase-in period,  $\frac{1}{2}$  of the percentage  
22 which the aggregate qualified research  
23 expenses of the taxpayer for the 5th,  
24 6th, and 7th such taxable years is of

1 the aggregate gross receipts of the  
2 taxpayer for such years,

3 “(V) in the case of the taxpayer’s  
4 9th such taxable year in the phase-in  
5 period,  $\frac{2}{3}$  of the percentage which the  
6 aggregate qualified research expenses  
7 of the taxpayer for the 5th, 6th, 7th,  
8 and 8th such taxable years is of the  
9 aggregate gross receipts of the tax-  
10 payer for such years,

11 “(VI) in the case of the tax-  
12 payer’s 10th such taxable year in the  
13 phase-in period,  $\frac{5}{6}$  of the percentage  
14 which the aggregate qualified research  
15 expenses of the taxpayer for the 5th,  
16 6th, 7th, 8th, and 9th such taxable  
17 years is of the aggregate gross re-  
18 cepts of the taxpayer for such years,  
19 and

20 “(VII) for such taxable years  
21 thereafter, the percentage which the  
22 aggregate qualified research expenses  
23 for 4 consecutive taxable years se-  
24 lected by the taxpayer from the 5th  
25 through 10th such taxable years is of

1 the aggregate gross receipts of the  
2 taxpayer for such years.

3 “(iii) PHASE-IN PERIOD.—For pur-  
4 poses of this subparagraph, the term  
5 ‘phase-in period’ means the period of tax-  
6 able years beginning with—

7 “(I) in the case of a taxpayer de-  
8 scribed in clause (i)(I), the taxable  
9 year described in such clause, and

10 “(II) in the case of a taxpayer  
11 described in clause (i)(II), the first  
12 taxable year following the 3-consecu-  
13 tive taxable year period described in  
14 such clause.”

15 (B) CONFORMING AMENDMENT.—The  
16 heading for subparagraph (B) of section 41(c)  
17 is amended by inserting “AND FRESH-START”  
18 after “START-UP”.

19 (d) FLAT CREDIT FOR SMALL BUSINESSES.—

20 (1) IN GENERAL.—Paragraph (1) of section  
21 41(a) is amended to read as follows:

22 “(1) either—

23 “(A) in the case of a taxpayer not de-  
24 scribed in subparagraph (B), 20 percent of the  
25 excess (if any) of—



1 “(i) the qualified research expenses  
2 for the taxable year, over

3 “(ii) the base amount, or

4 “(B) in the case of an eligible small busi-  
5 ness, 10 percent of the qualified research ex-  
6 penses for the taxable year, and”.

7 (2) ELIGIBLE SMALL BUSINESS.—Section 41(f)  
8 (relating to special rules) is amended by adding at  
9 the end the following new paragraph:

10 “(6) ELIGIBLE SMALL BUSINESS.—The term  
11 ‘eligible small business’ means, with respect to any  
12 taxable year, a taxpayer with gross receipts (within  
13 the meaning of the first sentence of subsection  
14 (c)(5)) for the preceding taxable year not greater  
15 than \$100,000,000.”

16 (e) SPECIAL RULES FOR DEFENSE AND AEROSPACE  
17 INDUSTRIES.—Section 41(f) (relating to special rules), as  
18 amended by subsection (d)(2), is amended by redesignat-  
19 ing paragraphs (4), (5), and (6) as paragraphs (5), (6),  
20 and (7), respectively, and by inserting after paragraph (3)  
21 the following new paragraph:

22 “(4) DEFENSE AND AEROSPACE INDUSTRIES.—

23 “(A) IN GENERAL.—At the election of the  
24 taxpayer, this section may be applied separately  
25 with respect to the taxpayer’s qualified research

1 expenses and gross receipts attributable to the  
2 defense-related activities of such taxpayer. If  
3 the taxpayer makes the election under this sub-  
4 paragraph, the base amount for—

5 “(i) the taxpayer’s defense-related ac-  
6 tivities shall be determined as if the tax-  
7 payer’s other activities had been disposed  
8 of by the taxpayer, and

9 “(ii) the taxpayer’s other activities  
10 shall be determined as if the taxpayer’s de-  
11 fense-related activities had been disposed  
12 of by the taxpayer.

13 “(B) DEFENSE-RELATED ACTIVITIES.—  
14 For purposes of this paragraph, the term ‘de-  
15 fense-related activities’ means any activity in  
16 connection with the development and production  
17 pursuant to a contract (or subcontract thereof)  
18 of—

19 “(i) an arm, ammunition, or imple-  
20 ment of war designated in the munitions  
21 list published pursuant to section 38 of the  
22 Arms Export Control Act (22 U.S.C.  
23 2778), but only to the extent such property  
24 is specifically designed, modified, or  
25 equipped for military purposes, or

1 “(ii) equipment for the National Aero-  
2 nautics and Space Administration.”

3 (f) MINIMUM BASIC RESEARCH AMOUNT DETER-  
4 MINATION SIMPLIFIED.—Subparagraph (A) of section  
5 41(e)(4) (defining minimum basic research amount) is  
6 amended to read as follows:

7 “(A) IN GENERAL.—The term ‘minimum  
8 basic research amount’ means an amount equal  
9 to the amounts treated as contract research ex-  
10 penses during the base period by reason of this  
11 subsection (as in effect during the base pe-  
12 riod).”

13 (g) COOPERATIVE RESEARCH ACTIVITIES.—

14 (1) IN GENERAL.—Subsection (a) of section 41  
15 is amended by striking “and” at the end of para-  
16 graph (1), by striking the period at the end of para-  
17 graph (2) and inserting “, and”, and by adding at  
18 the end the following new paragraph:

19 “(3) 20 percent of the qualified cooperative re-  
20 search expenditures (as defined in subsection (h))  
21 for the taxable year.’

22 (2) QUALIFIED COOPERATIVE RESEARCH EX-  
23 PENDITURES DEFINED.—Section 41 is amended by  
24 redesignating subsection (h) as subsection (i) and by

1 adding after subsection (g) the following new sub-  
2 section:

3 “(h) QUALIFIED COOPERATIVE RESEARCH EXPENDI-  
4 TURES.—For purposes of this section—

5 “(1) IN GENERAL.—The term ‘qualified cooper-  
6 ative research expenditures’ means the aggregate  
7 amount of qualified contributions to qualified coop-  
8 erative research consortia for qualified research.

9 “(2) QUALIFIED CONTRIBUTIONS.—For pur-  
10 poses of this subsection—

11 “(A) IN GENERAL.—Subject to the limita-  
12 tions of subparagraphs (B), (C), and (D), the  
13 term ‘qualified contributions’ means all con-  
14 tributions to qualified cooperative research con-  
15 sortia for qualified research with respect to  
16 which the taxpayer elects to have this sub-  
17 section apply.

18 “(B) PRIVATE SOURCE FUNDING LIMITA-  
19 TION.—

20 “(i) IN GENERAL.—Qualified con-  
21 tributions of a taxpayer shall not exceed  
22 the amount which bears the same ratio to  
23 such qualified contributions (determined  
24 without regard to this subparagraph) as  
25 the private source funding ratio.

1           “(ii) PRIVATE SOURCE FUNDING  
2           RATIO.—For purposes of clause (i), the  
3           private source funding ratio is the sum  
4           of—

5                   “(I) 50 percent of the ratio which  
6                   the gross receipts of the organization  
7                   (not including the amount of any gov-  
8                   ernmental support) for the preceding  
9                   taxable year bears to the total gross  
10                  receipts of the organization for such  
11                  taxable year, plus

12                   “(II) 30 percent of such ratio for  
13                   the second preceding taxable year,  
14                   plus

15                   “(III) 20 percent of such ratio  
16                   for the third preceding taxable year.

17           “(C) LIMITATIONS.—For purposes of this  
18           subsection, the following shall not be taken into  
19           account in determining qualified contributions:

20                   “(i) The excess of noncash contribu-  
21                   tions over cash contributions.

22                   “(ii) Contributions representing over-  
23                   head allocated to services performed by a  
24                   taxpayer’s employees to the extent such  
25                   overhead exceeds 25 percent of the salary

1 and benefit amounts allocated to such serv-  
2 ices.

3 “(iii) Contributions by a taxpayer to a  
4 qualified cooperative research consortium  
5 to the extent they exceed one-third of the  
6 consortium’s total nongovernmental sup-  
7 port for the consortium’s taxable year with  
8 or within which the taxpayer’s taxable year  
9 ends.

10 “(D) CONSORTIUM WITH FEWER THAN 5  
11 PARTICIPANTS.—If a qualified cooperative re-  
12 search consortium has less than 5 persons mak-  
13 ing nongovernmental contributions, the quali-  
14 fied contributions of each such person (deter-  
15 mined without regard to this subparagraph or  
16 subparagraph (B)) shall be reduced—

17 “(i) by 20 percent if there are 4 such  
18 persons, or

19 “(ii) by 40 percent if there are 3 such  
20 persons.

21 “(3) QUALIFIED COOPERATIVE RESEARCH CON-  
22 SORTIUM.—The term ‘qualified cooperative research  
23 consortium’ means any organization—

24 “(A) which is registered under the Na-  
25 tional Cooperative Research Act of 1984, but

1           only if such registration has been published  
2           (and is in effect) on the last day of the organi-  
3           zation's taxable year with or within which the  
4           taxpayer's taxable year ends, and

5                 “(B) which during such taxable year—

6                         “(i) had at least 5 contributors, but  
7                         only if—

8                                 “(I) no 3 members contributed  
9                                 more than 80 percent of total non-  
10                                governmental contributions, and

11                               “(II) no single member contrib-  
12                                uted more than 50 percent of total  
13                                nongovernmental contributions, or

14                               “(ii) had either 3 or 4 contributors,  
15                               but only if—

16                               “(I) no single member contrib-  
17                                uted more than 50 percent (and no 2  
18                                members contributed more than 85  
19                                percent) of the total nongovernmental  
20                                contributions, and

21                               “(II) the contributors are en-  
22                                gaged in the same trade or business.

23                 “(4) SPECIAL RULES.—For purposes of this  
24                 subsection—

1           “(A) NONCASH CONTRIBUTIONS.—Quali-  
2           fied contributions other than cash (including  
3           services provided by a taxpayer’s employees)  
4           shall be taken into account at their cost (or  
5           such other basis determined under regulations).

6           “(B) OVERHEAD.—The cost of services  
7           provided by a taxpayer’s employees shall include  
8           overhead properly allocable to such services.

9           “(5) NO DOUBLE BENEFIT.—Amounts taken  
10          into account under this subsection in computing  
11          qualified cooperative research expenditures shall not  
12          be taken into account under paragraph (1) or (2) of  
13          subsection (a).

14          “(6) PREPAID AMOUNTS.—If any contributions  
15          paid or incurred during the taxable year to qualified  
16          cooperative research consortia are attributable to  
17          qualified research to be conducted after the close of  
18          the taxable year, such amount shall be treated as  
19          paid or incurred during the period which the quali-  
20          fied research is conducted.

21          “(7) REPORTS.—Each qualified cooperative re-  
22          search consortium shall provide to the Secretary a  
23          report containing—

24                 “(A) its certification as such an organiza-  
25                 tion,



1           “(B) its private source funding ratio for  
2           the taxable year,

3           “(C) its qualified research expenditures for  
4           such taxable year, and

5           “(D) such other information as the Sec-  
6           retary may require.

7       Each consortium shall provide a copy of the report  
8       to each contributor.”

9       (h) UNIVERSITY AFFILIATED HOSPITALS ELIGIBLE  
10   FOR BASIC RESEARCH CREDIT.—Section 41(e)(6) (defin-  
11   ing qualified organization) is amended by adding at the  
12   end the following new subparagraph:

13           “(E) UNIVERSITY AFFILIATED HOS-  
14           PITALS.—Any organization not otherwise de-  
15           scribed in this paragraph which is an organiza-  
16           tion described in section 170(b)(1)(A)(iii) and  
17           affiliated with an organization described in sub-  
18           paragraph (A).”

19       (i) EFFECTIVE DATE.—The amendments made by  
20   this section shall apply to taxable years beginning after  
21   December 31, 1992.

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